

1. No response is required to the introductory paragraph of the Third-Party Complaint.

I.

2. With respect to the allegations contained in Section I of the Third-Party Complaint, Guardian admits that it has been served with the Third-Party Complaint in the above-captioned lawsuit. Guardian is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section I of the Third-Party Complaint, and therefore denies those allegations.

II.

3. With respect to the allegations contained in Section II of the Third-Party Complaint, Guardian admits that Plaintiff Nathan Jackson filed an Original Petition making a number of allegations and asserting various claims against Defendants/Third-Party Plaintiffs. Guardian further admits that Defendants/Third-Party Plaintiffs have denied all allegations of Plaintiff. Guardian otherwise denies the allegations contained in Section II of the Third-Party Complaint, and denies the allegations contained in Plaintiff's Original Petition as referenced in the Third-Party Complaint, to the extent the allegations in either pleading are directed toward or refer to Guardian. Guardian is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section II of the Third-Party Complaint, and therefore denies the allegations.

III.

4. With respect to the allegations contained in Section III of the Third-Party Complaint, Guardian denies that it made payments for medical care provided to Nathan Jackson or received refunds due to credit balances on such patient's accounts. Guardian is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section III of the Third-Party Complaint.

IV.

5. With respect to the allegations contained in Section IV of the Third-Party Complaint, Guardian is without knowledge or information sufficient to form a belief as to whether Third-Party Plaintiffs are liable for any damages to Plaintiff. Guardian denies that Third-Party Plaintiffs are entitled to contribution or indemnity from Guardian or that Third-Party Plaintiffs are entitled to recover from Guardian on any other legal theory.

V.

6. Guardian is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Section V of the Third-Party Complaint. No response is required to the legal assertions contained in Section V of the Third-Party Complaint.

7. Guardian denies that Third-Party Plaintiffs are entitled to any relief from Guardian as requested in the prayer of the Complaint.

8. All allegations contained in the Third-Party Complaint not specifically admitted are denied.

AFFIRMATIVE DEFENSES

9. Third-Party Plaintiffs' claims against Guardian fail as a matter of law because Guardian did not provide health benefits or coverage to Nathan Jackson.

10. Third-Party Plaintiffs' Complaint seeks benefits pursuant to employee benefit plans under ERISA. As such, any state law claims asserted by Third-Party Plaintiffs relate to the Plan and are preempted by ERISA. Accordingly, to the extent Third-Party Plaintiffs' Complaint is based on state law claims, the Complaint fails to state any claim upon which relief can be granted.

11. To the extent Plaintiff's Complaint and the Third-Party Plaintiffs' Complaint seek benefits pursuant to an employee benefit plan under ERISA, any state law claims asserted by Plaintiff relate to the Plan and are preempted by ERISA.

12. Any decisions regarding Plaintiff's or Third-Party Plaintiffs' claims for benefits was not an abuse of discretion.

13. Any decisions regarding Plaintiff's or Third-Party Plaintiffs' claims for benefits was not arbitrary and capricious.

14. Any benefit determinations, and any alleged reimbursements, with respect to Plaintiff's claim for benefits were proper and correct under the terms of the Plan or Plans under which benefits were paid, if any.

15. Any damages allegedly sustained by Third-Party Plaintiffs, if any be proved, were caused in whole or in part by the culpable conduct of Plaintiff, Third-Party Plaintiffs, or other third parties or instrumentalities over whom Guardian had no right of control and, therefore, the amount of any damages otherwise recoverable against Guardian should be extinguished or reduced in comparative proportion to the culpable conduct of Plaintiff, Third-Party Plaintiffs or any other third parties.

16. Guardian is informed and believes and on that basis alleges that Third-Party Plaintiffs' Complaint, and each cause of action therein, is barred by reason of Article VI of the United States Constitution.

17. Third-Party Plaintiffs' damages, if any be proved, should be reduced by the amount attributable to Third-Party Plaintiffs' failure to mitigate damages.

18. On information and belief, Third-Party Plaintiffs' claims against Guardian are barred by the doctrines of estoppel, waiver, laches and unclean hands.


19. Third-Party Plaintiffs failed to perform all conditions necessary to recover from Guardian in this lawsuit.

20. Based on information and belief, Third-Party Plaintiffs' claims are barred because the administrative remedies provided for in the Plan or Plans at issue in this case were not exhausted.

WHEREFORE, PREMISES CONSIDERED, Defendant Guardian Life Insurance Company of America prays that upon final trial of this cause, it be granted judgment, that Third-Party Plaintiffs take nothing and that Guardian recover its fees, costs of court and be awarded such other and further relief to which it may be justly entitled.

Respectfully submitted,

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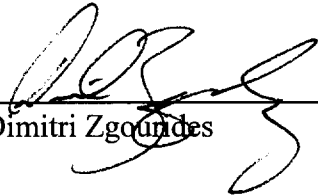
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CERTIFICATE OF SERVICE

I, Dimitri Zgourides, hereby certify that a true and correct copy of the foregoing document was served upon counsel of record by certified mail, return receipt requested, on this 7th day of September, 2000, addressed as follows:

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